



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE

United States Patent and Trademark Office

Address: COMMISSIONER FOR PATENTS

P.O. Box 1450

Alexandria, Virginia 22313-1450

www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/800,565	03/15/2004	Roger Geoffrey Halstead	23488	9825
24932	7590	10/28/2008		
LAUBSCHER & LAUBSCHER, P.C. 1160 SPA ROAD SUITE 2B ANNAPOLIS, MD 21403			EXAMINER DUMAS, NKEISHA J	
			ART UNIT 3632	PAPER NUMBER
			NOTIFICATION DATE 10/28/2008	DELIVERY MODE ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

LLAUBSCHER@LAUBSCHERLAW.COM

info@laubscherlaw.com

asimonini@laubscherlaw.com

Office Action Summary

Application No.

10/800,565

Applicant(s)

HALSTEAD, ROGER GEOFFREY

Examiner

NKEISHA J. DUMAS

Art Unit

3632

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 6/17/2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-19 is/are pending in the application.
- 4a) Of the above claim(s) 2-11 and 19 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1, 3-10 and 12-18 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)
Paper No(s)/Mail Date _____

- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____
- 5) ☐ Notice of Inventor's Patent Application
- 6) ☐ Other: _____

DETAILED ACTION

1. The following correspondence is a Final Office Action for application no. 10/800,565 for a POSITION ADJUSTMENT MECHANISM, filed on 3/15/2004. This correspondence is in response to applicant's reply filed on 6/17/2008. Claims 1-19 are pending. Claims 2, 11 and 19 are withdrawn.

Drawings

2. Replacement drawings were received on 6/17/2008. These drawings are accepted.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 12-15 and 18 are rejected under 35 U.S.C. 102(b) as being anticipated by Rothschild (EP 0165190).

Regarding claim 12, Rothschild teaches an apparatus (Figs. 2, 4a) comprising a cam circuit (2) provided on a first one of an element (4) and a cam follower (2) provided on a second one of an element (5).

Regarding claim 13, Rothschild teaches the apparatus of claim 12, wherein the first and second elements comprise respective first and second cylindrical portions, the first one (4) of which is disposed inside the second (5).

Regarding claim 14, Rothschild teaches the apparatus of claim 13, wherein an end of the first cylindrical portion together with an internal bore (9) of the second cylindrical portion form a chamber between the elements (Fig. 2).

Regarding claim 15, Rothschild teaches the apparatus of claim 12, wherein the chamber has a combined fluid inlet/outlet (hole through which member 1 is inserted).

Regarding claim 18, Rothschild teaches the apparatus of claim 12, wherein relative longitudinal movement between the elements in one direction is effected through introducing a fluid under pressure into the chamber.

Claim Rejections - 35 USC § 103

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

6. The factual inquiries set forth in *Graham v. John Deere Co.*, 383 U.S. 1, 148 USPQ 459 (1966), that are applied for establishing a background for determining obviousness under 35 U.S.C. 103(a) are summarized as follows:

1. Determining the scope and contents of the prior art.
2. Ascertaining the differences between the prior art and the claims at issue.
3. Resolving the level of ordinary skill in the pertinent art.
4. Considering objective evidence present in the application indicating obviousness or nonobviousness.

7. Claims 1, 3-10, 16 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Rothschild (EP 0165190).

Regarding claim 1, Rothschild teaches a position adjustment mechanism (Fig. 2) comprising two cylindrical portions (4, 5), a first one of the cylindrical portions (4) being slidably disposed inside a second one of the portions (5), wherein one of the cylindrical portions has a detents (P2) and the other portion has a member (2), the member being removable from the detents, but does not teach that the one cylindrical portion has three detents and the other cylindrical portion has three members, wherein the detents and members are equally spaced around the first and second portions. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the position adjustment mechanism having three detents and three members wherein the detents and members are equally spaced around the first and second portions in order to give stronger support and since the mere duplication of the essential working parts of a device involves only routine skill in the art. Further, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to equally space the detents and members around the first and second portions because the equal spacing of the detents and members around the cylinders would provide uniformity in the adjustment of the structure (see page 7, lines 6-7).

Regarding claim 3, Rothschild teaches the mechanism of claim 1, wherein the cylindrical portions have axes arranged generally vertical, and said detents are upwardly open.

Regarding claim 4, Rothschild teaches the mechanism of claim 1, wherein said detents are formed on said first cylindrical portion (Fig. 2).

Regarding claim 5, Rothschild teaches the mechanism of claim 4, wherein said members are formed on said second portion (Fig. 2).

Regarding claim 6, Rothschild teaches the mechanism of claim 5, wherein said detents each form a part of a groove formed on said first portion, the members engaging in respective said grooves.

Regarding claim 7, Rothschild teaches the mechanism of claim 6, wherein said grooves form respective circuits, said members moving around the circuit as the portions move from their first position to their second position and back to their first position.

Regarding claim 8, as best understood, Rothschild teaches the mechanism of claim 6, having an odd number of grooves and members, greater than 1.

Regarding claim 9, Rothschild teaches the mechanism of claim 1, wherein one of the portions is in contact with a first body (page 9, col. 22) and the other of said portions is in contact with a second body (floor or support), motion of the portions between the first and second positions serving to adjust the distance between the bodies.

Regarding claim 10, Rothschild teaches the mechanism of claim 1, wherein a chamber is formed between the cylindrical portions, relative movement being effected through pressurizing or depressurizing the chamber (increasing and decreasing the amount of air in the chamber).

Regarding claim 16, Rothschild teaches the mechanism of claim 12 further comprising a plurality of cam circuit/cam follower combinations (two), but does not teach that the combinations are positioned non-diametrically around a circumference of the

cylindrical portions. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the combinations positioned non-diametrically around a circumference of the cylindrical portions as a matter of design choice since such a modification would have involved a mere change in the orientation of the component and applicant has not shown how the chosen orientation is critical.

Regarding claim 17, Rothschild teaches the mechanism of claim 16, but does not teach that three cam circuit/cam follower combinations are provided at equal intervals around a circumference of the cylindrical portions. It would have been obvious to one of ordinary skill in the art, at the time the invention was made, to construct the position adjustment mechanism having three cam circuit/cam follower combinations provided at equal intervals around a circumference of the cylindrical portions in order to give stronger support and since the mere duplication of the essential working parts of a device involves only routine skill in the art. Further, it would have been obvious to one of ordinary skill in the art, at the time the invention was made, to equally space the cam circuit/cam follower combinations because the equal spacing of the detents and members around the cylinders would provide uniformity in the adjustment of the structure (see page 7, lines 6-7).

Response to Arguments

8. Applicant's arguments filed 6/17/2008 have been fully considered but they are not persuasive.
9. First, applicant appears to argue that the Rothschild reference does not teach all of the claimed limitations, because it would "be rather difficult given the cylindrical

limitation of the male telescopic element" to provide two multi-position cam paths. The examiner respectfully disagrees. First, as the applicant acknowledges, the Rothschild reference discloses that a second cam may be provided to give stronger support. The applicant, therefore, has no basis for concluding that the Rothschild mechanism can not accommodate two cam systems. Secondly, applicant does not know how the dimensions of the male telescopic element would relate to the dimensions of a second cam system. It is quite possible that the surface area of the male telescopic element disclosed in the Rothschild reference could be constructed such that it is large enough to accommodate two, or even three, cam systems.

10. In response to applicant's argument that the references fail to show certain features of applicant's invention, it is noted that the features upon which applicant relies (i.e., that the invention is for raising a very heavy item (page 15)) are not recited in the rejected claim(s). Although the claims are interpreted in light of the specification, limitations from the specification are not read into the claims. See *In re Van Geuns*, 988 F.2d 1181, 26 USPQ2d 1057 (Fed. Cir. 1993).

11. Applicant also argues that "it is very clear from Rothschild that two cam/pawl sets, at most, are considered possible for one such leg. There is no disclosure or suggestion of a third cam/pawl set, the inference from Rothschild being on the contrary that this simply would not be possible or considered." The examiner agrees that the Rothschild reference is silent as to a third cam/pawl set on one leg. This does not mean, however, that this type of arrangement would not be possible or considered. As set forth above, it would have been obvious to one of ordinary skill in the art, at the time

the invention was made, to construct the position adjustment mechanism having a third cam/pawl set in order to give even stronger support to the leg and since the mere duplication of the essential working parts of a device involves only routine skill in the art. Rothschild does not teach against a third cam/pawl set. No where in the reference does it state that only two cams may be provided, or that no more than two cams can be provided. Further, contrary to applicant's assertion (see page 17), no where in the Rothschild reference does it state that "at most two such cam/pawl sets will be possible."

Conclusion

12. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to NKEISHA J. DUMAS whose telephone number is (571)272-5781. The examiner can normally be reached on Monday - Friday, 7:30 a.m. - 4:00 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, J. Allen Shriver can be reached on (571) 272-6698. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Nkeisha J. Dumas/
Examiner, Art Unit 3632

October 14, 2008

/J. ALLEN SHRIVER II/
Supervisory Patent Examiner, Art Unit 3632